THE HON'BLE SRI JUSTICE D.S.R.VARMA
AND
THE HON'BLE SRI JUSTICE D. APPA RAO

Taken up Writ Petition No.1085 of 2007

Date: 05-03-2007

Between:

Guntreddy Kavitha,
W/o. Srinivasa Rao @ Srinu,
R/o. Venkatarajapuram of
Jiyyammavalasa Mandalam,
Viziamanagaram District.

… Petitioner/s

And

The Station House Officer,
Jiyyammavalasa,
Vizianagaram Police Station,
Vizianagaram District and 4 others.

… Respondent/s

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ORAL ORDER: (per the Hon'ble Sri Justice D. Appa Rao)

Heard the learned Assistant Government Pleader, representing the learned Advocate General, appearing for the respondents.

2. This writ petition is taken up on a petition, dated 08-01-2007 sent by one Guntreddy Kavitha, W/o. Srinivasa Rao, against her husband, alleging that her husband, Sri Guntreddy Srinivasa Rao and his brother Sri Jagadeesh, took away her son, aged 4 years, when she was taking him in Godavari Express, after administering sleeping pills to her. She prays her son be produced before this Court.

3. The Superintendent of Police, Vizianagaram District, filed counter affidavit alleging that on the written complaint, dated 16-01-2006 given by the petitioner, a case in Crime No.1 of 2006 for the offences under Sections 417, 498-A, 363 read with Section 34 of Indian Penal Code and Section 7(1)(d) of P.C.R. Act was registered against her husband and in-laws and one Lakshman Rao, by the S.H.O., Jiyyammavalasa Police Station. She alleged in her complaint that about 2 ½ years ago, she got married to one Sri Moyyaboina Sambaiah of Ayodyapuram village and got two children and subsequently she came to Hyderabad. Later, when her husband took away her children, she had come into contact with Srinivasa Rao and delivered a boy in Government Hospital, Koti, Hyderabad, on 31-

08-2005, later her husband and his brother took her along with the boy to Visakhapatnam in Godavari Express and on the way she was administered with sleeping pills. When she regained consciousness, she found that her son was not with her. When she questioned her husband and his brother, they took her and kept her in a room at Vijayawada and went away. It is further stated in the counter that during investigation, she gave a statement under Section 164 of the Code of Criminal Procedure before the Special Judicial First Class Magistrate, Vizianagaram, on 18-03-2006, that while on their way to Visakhapatnam in a train, the boy died due to lack of milk. Thereupon they got down at Vijayawada and cremated the child in the banks of Krishna river. When somebody asked her to give a complaint to the police, she gave it. After completion of investigation, since the offences under Sections 417, 498-A, 363 read with Section 34 of Indian Penal Code and Section 7(1)(d) of P.C.R. Act were not made out, they dropped those sections, and filed the charge sheet against her husband under Section 498-A before the learned Judicial Magistrate of First Class, Parvathipuram, and the case is pending. During pendency of the said case, the petitioner came up with the present petition. In fact, the petitioner is actively participating in the Communist activities along with other Communist Leaders in and around Vizianagaram District and she is in the habit of filing complaints against various authorities.

4. Admittedly, the petitioner has given altogether different statement before the learned Magistrate, when he recorded her statement under Section 164 of Cr.P.C. Her statement recorded under Section 164 Cr.P.C., is appended to the counter. She made a categorical statement that her son died due to lack of milk. Therefore, her request for the production of the boy will not arise. If she feels that justice was not rendered to her, and is definite that her son is alive, she is free to give a complaint to the police. In view of the categorical statement made before the learned Magistrate and as there is an alternative efficacious remedy available to the petitioner under Section 200 of Cr.P.C., we do not see any merit in the writ petition and the same is liable to be dismissed.

5. The writ petition is accordingly dismissed, at the stage of admission. However, there shall be no order as to costs.

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JUSTICE D.S.R.VARMA

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JUSTICE D. APPA RAO

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Msr.

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